Manufactured Housing Association for Regulatory Reform

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September 2, 2009

VIA FED-EX

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General Counsel
Attn: Comments/RIN 2590-AA27
Federal Housing Finance Agency
Fourth Floor
1700 G Street, N.W.
Washington, D.C. 20552

Re: Advance Notice of Proposed Rulemaking -- RIN 2590-AA27
74 Federal Register No. 148, August 4, 2009, Page 38572
Duty to Serve Underserved Markets for Enterprises

Dear Mr. Pollard:

The following comments are submitted on behalf of the Manufactured Housing Association for Regulatory Reform (MHARR) in response to the Advance Notice of Proposed Rulemaking (ANPR) concerning the "Duty to Serve Underserved Markets for Enterprises" published by the Federal Housing Finance Agency (FHFA) in the Federal Register on August 4, 2009.

MHARR is the only national trade association dedicated exclusively to representing the views and interests of producers of manufactured housing regulated by the Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (1974 Act), as amended by the Manufactured Housing Improvement Act of 2000 (2000 Act). MHARR was founded in 1985. Its members include manufactured housing producers from all regions of the United States and many smaller and medium-sized producers that have been severely impacted by the economic recession and discrimination in the financing of manufactured housing that the "Duty to Serve" (DTS) is designed to rectify.

I. GENERAL COMMENTS

A. The Condition of the Manufactured Housing Industry and the Enterprises' Failure to Serve the Manufactured Housing Market

The manufactured housing industry has sustained an unprecedented decline in sales and production that is due, in significant part, to the virtual unavailability of private financing for manufactured home purchases. And because HUD-regulated manufactured housing ("HUD Code" housing) is the nation's leading source of affordable, non-subsidized home ownership, this decline is having a serious ongoing impact on American consumers of affordable housing, especially lower and moderate-income families. Since 1998, manufactured home production and sales have declined by nearly 78 percent and, in 2007, fell below 100,000 homes for the first time since 1961. Worse yet, projections for 2009 show an accelerating deterioration of the market. At present, 2009 HUD Code manufactured home shipments (i.e., units shipped from manufacturers to dealers for retail sale) are forecast to fall short of 50,000 homes. The magnitude of this contraction threatens both the availability of affordable housing for Americans and the very survival of the HUD Code manufactured housing industry, all resulting in growing congressional concern.

In large measure, the unavailability of private purchase-money financing for manufactured housing consumers is due to policy decisions implemented earlier this decade by the two Government Sponsored Enterprises -- Fannie Mae and Freddie Mac (collectively "Enterprises") -- which effectively discriminate against HUD Code manufactured homes and manufactured housing consumers. As a consequence of these policies, manufactured housing obligations -- which had long been a minimal component of the Enterprises' portfolios notwithstanding sustained growth in the broader housing economy -- have now been reduced to less than one percent of the total business portfolios of both Enterprises, even though manufactured housing has historically represented approximately 10-15% of the single-family housing market. This has not only constricted the availability of liquidity necessary to support an economically viable level of private financing for manufactured home purchases, but is also relevant to the Enterprises' failure to meet their affordable housing goals for 2008, as previously documented by FHFA (see, 74 Federal Register No. 83, May 1, 2009 at p. 20242).

Discrimination by the Enterprises against manufactured housing and manufactured housing consumers is also inconsistent with federal housing policy as expressed by Congress in the Manufactured Housing Improvement Act of 2000. That legislation institutionalizes Congress' goal to "facilitate the availability of affordable manufactured homes and to increase home ownership for all Americans." (see, 42 U.S.C. 5401(b)(2)). The promise of affordable manufactured housing for American families, however, means little if the private financing necessary to purchase a HUD Code home is either unavailable, or its availability is severely and unreasonably restricted.

B. <u>The "Duty to Serve Underserved Markets"</u>

Congress, recognizing that the Enterprises have not fulfilled their mission with respect to HUD Code manufactured housing and its consumers, included the DTS provision in the Housing and Economic Recovery Act of 2008 (HERA), directing the Enterprises to "develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on <u>manufactured homes</u> for very low-, low-, and moderate-income families." (Emphasis added). DTS thus represents a finding and declaration by Congress that the Enterprises have not and are not doing enough to serve the manufactured housing market (and other specified markets), as well as a <u>remedy</u>, directing the Enterprises to do more, subject to evaluation and enforcement by FHFA.

Given the specific remedial nature of this congressional directive, the considerations underlying the general Enterprise affordable housing goals are inapplicable to the formulation of appropriate regulations by FHFA to define and implement DTS, and to evaluate the Enterprises' compliance with those requirements. (MHARR emphasized this point in its comments in response to FHFA's May 1, 2009 proposed rule to establish 2009 Enterprise Transition Affordable Housing Goals.) Accordingly, MHARR agrees with and fully supports FHFA's conclusion, as set forth in the ANPR, that "the duty to serve underserved markets is separate from and additional to the Enterprises' affordable housing goals." (<u>See</u>, 74 Federal Register, No. 148 at 38573, col. 2). This conclusion, however, appears to be inconsistent with FHFA's subsequent statement that "the duty to serve is not an independent source of authority for the Enterprise[s]." (<u>Id</u>. at col. 3). In view of the broad mandate established by Congress in DTS to affirmatively <u>remedy</u> specific failures by the Enterprises to fulfill their mission, MHARR would urge FHFA to re-evaluate this premise in conjunction with its publication of a proposed rule in this docket.

Furthermore, because of the hardships for consumers of affordable housing that have resulted from the Enterprises' failure to adequately serve the manufactured housing market, it is essential that the duty to serve be implemented properly and <u>as expeditiously as possible</u>. Section 1129(d)(1) of HERA requires FHFA to "by regulation, <u>establish effective for 2010 and thereafter</u> a manner for evaluating whether, and the extent to which, the enterprises have complied with the duty [to serve]." (Emphasis added). Consistent with this directive, a final rule to implement DTS needs to be in place no later than January 1, 2010 and proceedings in this docket should be <u>expedited</u>, as necessary, to accomplish that result.

To advance the expeditious implementation of DTS, MHARR, since June 2008, has provided input to the Enterprises and FHFA regarding its views on the scope and content of DTS programs. As part of that initiative, MHARR, on February 26, 2009, submitted a proposal and analysis to FHFA entitled "Application of the Duty to Serve Underserved Markets" (MHARR Attachment), which addresses, in detail, specific elements of DTS programs for both land-home, conforming and personal property-type manufactured housing loans. This document, a copy of which is attached hereto

(MHARR Attachment), is hereby incorporated by reference in these comments.

II. COMMENTS IN RESPONSE TO SPECIFIC ISSUES IDENTIFIED IN THE ANPR

The following comments respond to specific issues identified by FHFA in the ANPR -- in order of their appearance in the ANPR -- as well as certain other related matters that MHARR believes warrant comment.

A. Relationship of Housing Goals Credit to DTS

The ANPR seeks comment on "whether there are any categories of mortgage purchase transactions for which the Enterprises receive housing goals credit that should not be considered for the duty to serve." (Id. at 38573, col. 1).

Information provided to MHARR indicates that the Enterprises, at present, purchase Federal Housing Administration (FHA) insured Title II (real estate) manufactured home loans, either individually or in bulk, from approved originators and bundle those obligations for the investment market. While laudable and appropriate, any affordable housing goals credit that the Enterprises receive for such federally-insured transactions should not be considered for purposes of compliance with DTS. The purpose of DTS, as was made clear throughout the legislative process leading to its enactment, is to expand the securitization -- through the Enterprises -- of private-sector manufactured housing loans that are not part of either the Title I or Title II FHA programs for manufactured housing. While MHARR fully supports the securitization of FHA Title II obligations by the Enterprises and, in fact, urges FHFA and the Enterprises to expand such purchases to FHA Title I (home and land-home) transactions (see, Section D, below), such transactions are not within the scope of DTS as intended by Congress, and should not be permitted to offset the Enterprises' separate duty to expand the securitization of private-sector non-FHA loans under DTS.

The exclusion of these FHA transactions -- as well as transactions that do not involve the purchase of a residential unit to be used as a dwelling (see, section C, below) -- from DTS credit, is also consistent with FHFA's premise that DTS is "separate from and additional to" the Enterprises' other housing goals.

B. Definition of "Manufactured Home"

The ANPR defines "manufactured home" as "a structure, transportable in one or more sections, which is built on a permanent frame and is designed to be used as a dwelling, when connected to the required utilities." (Id. at 38574, col. 1). The ANPR cites the source of this definition as "12 U.S.C. 5402." As no such section of the United States Code exists, however, MHARR presumes that the correct reference is to 42 U.S.C. 5402 (6), which defines "manufactured home" as stated in the ANPR. MHARR agrees

with and supports the use of the definition of "manufactured home" contained in the 1974 Act (as amended) as the benchmark for inclusion in DTS as it pertains to manufactured housing.

C. Loans Secured by Manufactured Home Communities

The ANPR states that "Fannie Mae and Freddie Mac currently purchase loans secured by manufactured home parks" and seeks comment on "whether and how these transactions should be considered under the duty to serve the manufactured housing market." (Id. at 38574). It is unclear, however, whether such community-secured "loans" are for the purchase of manufactured homes by the community owner to be placed in the community for rental, or whether such loans are unrelated to the purchase of a manufactured home(s).

It is clear from the legislative history of HERA and from the structure of the duty to serve and related provisions that DTS was intended by Congress to expand the availability of private finance capital for purchases of manufactured homes (as well as the other enumerated markets, i.e., rural housing and affordable housing preservation) by consumers. It was not enacted to spur the securitization of loans for other purposes that relate only incidentally or indirectly to manufactured housing. Consequently, loans secured by manufactured housing communities that are not for the purchase of manufactured homes should not be considered for compliance with the DTS mandate. Conversely, loans secured by communities that are used to purchase manufactured homes for use in the community should be considered under DTS -- although credit for such purchases under the "Purchase Test" (see, section G-3, below) should be less than the credit accorded to manufactured housing purchases by individual low, lower and moderate-income purchasers.

D. Manufactured Housing Loans Secured by Personal Property

The ANPR states that "neither enterprise currently purchases personal property loans on manufactured housing on a flow basis" and seeks comment on "whether Enterprise purchases of manufactured home loans secured by personal property should be considered for purposes of the duty to serve." (Id.).

The answer to this question is "yes," however the observation that neither Enterprise currently purchases manufactured housing personal property loans requires some background and context. While Fannie Mae, in particular, has attacked the quality and performance of manufactured housing loans, and has largely refused to serve the traditional manufactured housing market, including personal property loans, it has consistently ignored the fact that the performance of its manufactured housing portfolio was skewed and distorted by its ill-advised investment in obligations originated by one finance company that later went bankrupt. Instead of re-assessing the performance of manufactured housing obligations in light of current-day lending practices, current-day

production and current-day installation, Fannie Mae's view -- and treatment -- of manufactured housing continues to be driven by the consequences of that transaction and circumstances that are no longer applicable in 2009. Consequently, DTS must provide for the Enterprises to engage all types of manufactured housing lending.

Thus, as the ANPR notes, HERA section 1129 (d)(3) authorizes FHFA to consider loans secured by both real and personal property (also known as "chattel loans") in determining whether the Enterprises have complied with the duty to serve. Congress authorized the inclusion of manufactured home personal property loans within DTS because: (1) personal property financing serves the needs of purchasers of the most affordable manufactured homes; (2) chattel loans have traditionally been a significant component of manufactured home loan originations and are essential to the revitalization of the manufactured housing industry; and (3) because including chattel financing for the most affordable manufactured homes will contribute significantly to the Enterprises meeting their overall affordable housing mission and goals. Moreover, in certain states, as the ANPR acknowledges, manufactured homes are deemed personal property by law. Consequently, chattel financing, as clearly implied by Congress, should be included in DTS, subject to appropriate provisions and concepts as explained in greater detail in the MHARR Attachment.

Related to chattel financing (although not specifically raised by the ANPR) is the issue of recourse. Insofar as DTS is a congressionally-mandated remedy for the Enterprises' failure to serve the manufactured housing finance market and a directive to end discrimination against manufactured homes and manufactured home consumers, the DTS regulations adopted by FHFA should not require or authorize Enterprise recourse against manufacturers or retailers in the event of a borrower default. MHARR is not aware of any Enterprise program involving other types of housing where third-party recourse is mandated or authorized, and no such discriminatory provisions should be targeted solely at manufactured housing under DTS. While recourse may not be an issue for one or two larger manufacturers that are vertically-integrated (with financing, manufacturing and retailing under common ownership) and Fannie Mae may have become accustomed to this practice and the lack of opposition by those particular manufacturers, the implementation of DTS should end any such discriminatory provisions targeted solely at manufactured housing, and should prohibit recourse or any similar requirement going forward.

Further, the Enterprises have increasingly indicated that risks associated with personal property lending cannot be assessed or priced because homes placed in manufactured home land-lease communities are subject to land leases that may terminate (e.g., due to eviction or redevelopment of the community) before the home purchase loan is fully repaid. Any such contention, however, is a "straw-man" that should be rejected. First, homes in communities represent only a portion of manufactured homes financed as personal property, with growing numbers being placed on individual lots. Second, according to land-lease community experts, the number of homes subject to eviction actions or community re-development (see, next paragraph) is minimal, constituting less than two percent of all manufactured homes in the approximately 50,000 land-lease

communities in the United States (85% of which hold less than 100 homes). Indeed, home turnover in all communities, for all reasons, is only approximately 5%. Consequently, the overwhelming majority of manufactured homes financed as personal property are never subject to land-lease terminations and are not moved (i.e., 95%) from their original site. This is a minimal issue, therefore, that should not stand in the way of chattel financing as part of DTS. To the extent that displacement does occur, it is an issue that is governed by state law and private contracts. The Enterprises could, however, link their purchases of loans secured by manufactured housing land-lease communities (see, section C) with programs for the compensation of displaced residents of re-developed land-lease communities.

Lastly, although not directly related to DTS, the Enterprises, as noted above, currently purchase FHA Title II manufactured home real estate mortgages. Given the condition of the industry and the related hardships faced by consumers of affordable housing, FHFA, for the reasons stated above, should authorize the Enterprises to purchase and securitize FHA Title I manufactured housing program loans, including home-only transactions. Such an extension of the Enterprises' authority and role in the manufactured housing market would be consistent with Congress' strong support for strengthened and expanded manufactured home lending, as illustrated both by the duty to serve and 2008 legislation which increased FHA manufactured housing loan limits. Moreover given the condition of the industry, the current unavailability of private financing, the resulting hardships faced by consumers of affordable housing and the fact that the Enterprises are now effectively federal entities, no stone should be left unturned to offer consumers additional viable sources of purchase-money financing for manufactured homes.

E. Land-Home Manufactured Housing Loans

The ANPR seeks comment on the "types of flexibility the Enterprises could add to their underwriting guidelines to facilitate financing for land-home and real estate loans." (Id.).

Both hybrid land-home transactions and conforming real estate transactions are addressed in substantial detail by the MHARR Attachment, because the bulk of current-day manufactured homes are placed on purchaser-owned lots, and it is in this area that the need for a suitable private finance products is most critical -- both to meet the needs of consumers of affordable housing and to revitalize the manufactured housing industry. As the MHARR Attachment indicates, flexibility is needed in allowing advances based on the manufacturer's invoice price for the home, rather than a strict appraisal regimen which is not appropriate to and has never provided a fair or workable basis for manufactured housing. In addition, to properly serve the manufactured housing market, as fully detailed in the MHARR Attachment, underwriting flexibility and innovative programs should be established in the following areas: (1) land in lieu of down payment; (2) higher equity loans; (3) "buy-for" and co-signer loans; and (4) stated income loans, among others. (See, MHARR Attachment at 9-10).

Further, underwriting flexibility is also needed regarding the installation of the home at the home-site so that typical manufactured housing installations are eligible for securitization without additional mandatory enhancements as one Enterprise (Fannie Mae) currently requires under one of its programs that has not yet been implemented. Proposed regulations for FHA use of the HUD federal manufactured housing installation standard for all of its manufactured housing transactions are in rulemaking. Under DTS, the Enterprises should be required to accept, under the same terms used for site-built housing, any manufactured home installed in accordance with the HUD federal installation standard -- or a state installation standard (which, by federal law, must provide at least the same degree of protection as the federal standard). Similarly, the Enterprises should be barred under DTS from requiring structural enhancements to manufactured homes, beyond compliance with applicable HUD Manufactured Home Construction and Safety Standards, in order to qualify for treatment equal to site-built and other types of single-family housing.

DTS programs will also need to address the current unavailability of mortgage insurance for the manufactured housing market. Recently, mortgage insurers have limited their coverage of manufactured housing loans due to issues that they face arising from the recession and related difficulties in the broader credit and housing markets. While mortgage insurance may be linked to Charter requirements of the Enterprises concerning loan-to-value (LTV) ratios, the finance industry has successfully offered profitable securities under traditional manufactured housing lending models for years. The additional risk has been mitigated through adjusted rate schedules and other changes in loan characteristics. Accordingly, DTS rules should either be structured to compensate for the unavailability of private mortgage insurance within the manufactured housing market (e.g., through Enterprise self-insurance), or the Enterprises and FHFA should explore other alternative means of providing the additional security that mortgage insurance would typically provide under normal market conditions.

F. Overlap of the Manufactured and Rural Housing Elements of DTS

Manufactured housing is a particularly important and growing source of home ownership in rural areas. Accordingly, manufactured housing transactions should be part of DTS as it relates to rural housing as an "underserved market," and manufactured housing placed in rural areas should be eligible for credit under both the manufactured housing and rural housing elements of DTS. This is consistent with the acknowledgment in the ANPR (id. at 38573, col. 3) that "an activity or transaction can be considered for more than one underserved market." Moreover, such double DTS credit for manufactured home transactions should provide an additional incentive to the Enterprises to serve the manufactured housing market.

G. Evaluation Criteria

1. Loan Product Test -- The ANPR seeks comment on "the types of loan products, underwriting flexibility and innovative approaches the Enterprises could

develop to serve" the underserved manufactured housing market. (Id. at 38575). As is set forth in detail in the MHARR Attachment, the Enterprises should establish DTS programs for manufactured housing chattel financing, land-home financing and conforming real estate financing. The underwriting flexibility and innovative approaches applicable to each such program are fully explained in the MHARR Attachment, but include, among other things, invoice-based, or hybrid-combination invoice and appraisal valuation, as well as other approaches based upon the unique usage and characteristics of manufactured housing, including, as noted above, (1) land in lieu of down payment; (2) higher equity loans; (3) "buy-for" and co-signer loans; and (4) stated income loans, among others.

2. Outreach Test -- One of the reasons for the virtual unavailability of private manufactured home financing has been a significant decline in the number of lenders following the Enterprises' adoption of discriminatory requirements and criteria specifically targeted at manufactured housing. These requirements and related practices that, as explained above, are acceptable and effectively tailored to one or two large companies have been a fig leaf for Fannie Mae, in particular, to severely limit its participation in the manufactured housing market and has substantially reduced financing competition to the detriment of consumers, while concentrating disproportionate market power in the hands of those same companies.

Consequently, under DTS, the Enterprises -- in addition to the initiatives evaluated under the Loan Product and Purchase Tests (i.e., offering a full range of loan products for manufactured housing based on flexible underwriting policies and reasonable criteria) -- should be prohibited from adopting or continuing requirements or criteria that favor certain manufacturers, such as those that are vertically integrated. In addition, the Enterprises should be required to develop aggressive outreach programs to encourage new lenders to enter and/or expand their participation in the manufactured housing market, including specific incentives or other consideration.

3. Purchase Test -- The ANPR seeks comment on "whether to measure the Enterprises' mortgage purchases by number of units financed, number of mortgages purchased, or unpaid principal balance," subject to Congress' prohibition against establishing "specific quantitative targets" or "evaluating the [E]nterprises solely on the volume of loans purchased." (Id. at 38576).

MHARR urges FHFA to use an amalgam of all of these criteria. Using unpaid principal balance alone, could favor financing of a smaller number of more costly units. A balance between dollar volume, loan volume and purchase volume will help to ensure that the largest possible number of low, lower and moderate-income consumers of manufactured housing will be served by the Enterprises.

Further, because DTS is a remedial provision to reverse the Enterprises' failure to serve the manufactured housing market, the substantive goal of DTS should be to bring about participation in the manufactured housing market by the Enterprises at the same or greater rate than they participate in the market for site-built and other types of single-family housing (i.e., securitizing the same or greater relative proportion of loans for

manufactured housing as occurs for site-built and all other types of single-family housing).

4. Grants Test -- Manufactured housing-related "projects" have not historically been recipients of government or private-sector grants. While grants and investments by the Enterprises that would assist in meeting the needs of the underserved manufactured housing market would be welcome, the primary focus of compliance evaluation for DTS as it relates to manufactured housing, should be on the number and value of loan purchases (Purchase Test) and the number, scope, variety and flexibility of loan products offered by the Enterprises for manufactured housing consumers (Loan Product Test).

H. Sizing the Market

The ANPR invites comment on "how to estimate the size of the manufactured housing ... market." In estimating the size of the manufactured housing market, FHFA should consider historical sales data regarding new manufactured homes, as maintained by HUD. FHFA should also consider data regarding the re-financing of manufactured home, as re-finance transactions should be included within the scope of the duty to serve, albeit accorded less credit under the Purchase Test than new home originations.

III. CONCLUSION

The manufactured housing industry offers American consumers the most affordable form of home-ownership available. Yet the housing opportunities offered by HUD Code homes are being denied to millions of low, lower, and moderate-income families due to the unavailability of private financing, driven by Enterprise requirements that have left manufactured home loans egregiously under-represented in the Enterprises' portfolios. This has simultaneously left the manufactured housing industry fighting for its survival. As Congress has recognized through the DTS provision, this failure of the Enterprises must be remedied, and must be remedied expeditiously, in order to restore the quality, affordable housing opportunities that Americans need and to revitalize the ailing manufactured housing industry. Accordingly, MHARR urges FHFA to act expeditiously to develop proposed and final rules to implement DTS and to ensure that such rules are in place no later than January 1, 2010.

Sincerely,

Danny D. Ghorbani
President

Attachment

Manufactured Housing Association for Regulatory Reform

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MHARR ATTACHMENT

APPLICATION OF THE DUTY TO SERVE UNDERSERVED MARKETS H.R.3221 -- THE HOUSING AND ECONOMIC RECOVERY ACT OF 2008

MANUFACTURED HOUSING LENDING

PREPARED BY THE

MANUFACTURED HOUSING ASSOCIATION FOR REGULATORY REFORM

February 2009

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TABLE OF CONTENTS

Section	**Page No.**
Introduction	3
Historical Lending	4
History of GSE Lending on Manufactured Homes	6
Lending Programs	7
Special Considerations	9
Lending Program Highlights	10
Current Consideration by the GSEs	11
Action Steps Necessary to Fulfill Duty to Serve	12
Summary	13

Appendix

Chattel Loan Worksheet	14

INTRODUCTION

Recently, Congress passed H.R.3221, The Housing and Economic Recovery Act of 2008. The passage of this legislation is historic in many ways, but none more marked or important than the "Duty to Serve Underserved Markets" contained in Section 1129. This bill was written to reform the laws that govern the operation of Fannie Mae and Freddie Mac, the two Government Sponsored Enterprises (GSEs), which have the greatest impact on capital liquidity, loan products and the nation's ability to offer mortgage financing for home ownership.

Part of the mission of the GSEs has always been to provide loan programs to fulfill established goals for affordable housing (the law specifically enumerates Manufactured Housing as Affordable Housing). Today Manufactured Housing ("MH") stands alone in its ability to house America affordably without significant support from government subsidies. Yet the GSEs have largely ignored and discriminated against Manufactured Housing. By the GSEs' own admission, MH loans make up less than 1% of their portfolios, even though historically MH has represented 10% to 15% of annual new single family housing starts in the United States. (Over the past twenty-five years, MH has represented as high as 25% and as low as 5% of annual single family housing starts. The large swings have been brought about by the boom or bust mentality of finance in both the site-built market and the MH market. Historical averages place annual volumes of sales of new manufactured homes at approximately 250,000 homes per year which is approximately 15% of recent housing trends.)

It is because of these discriminatory practices that the idea of Duty to Serve was included in the law. The requirements of Duty to Serve cannot be interpreted loosely. The GSEs, by nature, are capital raising entities that support the liquidity of capital available for mortgage financing. The law now requires specifically that the GSEs "increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets," which specifically includes Manufactured Homes. Furthermore the law states that "the enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low, low and moderate-income families."

While there may be various ideas about the establishment of benchmarks for the measurement criteria related to the Duty to Serve, it cannot be denied that historically the MH industry has been "grossly" underserved. The primary "push-back" by the GSEs over the years to the inclusion of loan products for MH products in the fulfillment of their affordable housing goals has been that MH loans will not perform and cannot be profitably originated and serviced. This paper has been prepared to provide:

1. A review of historical MH loan performance;

2. A discussion of profitable MH lending models; and

3. Action steps necessary for the GSEs to fulfill the Duty to Serve.

HISTORICAL LENDING

Since 1976, the Manufactured Housing Industry has been comprehensively regulated by HUD. The original regulatory legislation, the National Manufactured Housing Construction and Safety Standards Act of 1974, had a remarkable impact, resulting in an improvement of the industry's homes. Subsequent legislation, the Manufactured Housing Improvement Act of 2000 (2000 Act), filled gaps left in the regulation of the industry related to standards for installation and dispute resolution to assist consumers with issues in the field.

Even though much of the regulation that has improved industry practices, products and installation is just now being implemented, for several years industry lenders built successful lending models that served the industry well and produced profitability for the lenders. These new regulations will only serve to enhance these lending models. The industry has actually received a "bad rap" concerning the idea that lenders cannot produce performing loans on Manufactured Homes. This stereotype has been propagated by three events.

First, during the 1980's the failure of the "oil patch" economy caused significant repossessions and foreclosures of Manufactured Homes. This occurred because the states of Louisiana, Texas and Oklahoma suffered horrendous economic devastation during a time of upheaval in the oil industry. These states also accounted for approximately 25% of the market for Manufactured Homes in the U.S. While the industry acknowledges that many loans failed, the fact is the economic devastation was not limited to MH loans. Mortgage loans on site-built homes and commercial loans also failed to perform to the same degree as the failure of MH loans. These failures were brought about by the economic anomaly suffered by the oil patch states. MH loan performance was a function of the economic landscape, not a failure of the lending model or the underlying collateral, and was impacted to the same degree as other classes of assets.

Second, in addition to the problems stemming from the oil patch economy, during the 1980's, the Savings and Loan industry was devastated by poor loan performance due to bad and fraudulent lending practices. These bad practices were applied to commercial and site-built loans, but did not follow MH loans. The reason MH loans originated by the thrifts were not subject to similar loan performance is due to Advance Based Lending Models as opposed to Appraisal Based Lending Models. Abuses in appraisal led to

significant overvaluation practices which impacted loan performance for commercial and site built home loans ultimately causing the failure of the thrift system and the creation of the Resolution Trust Corporation. The fact is, MH loans significantly out-performed other classes of assets originated by the thrifts.

However, despite the performance of its loans, Manufactured Housing suffered because the thrift system originated approximately 30% of the loans on Manufactured Homes during the mid-80's. The failure of the thrift system eliminated a significant portion of MH lending capacity, although loan performance was better than other classes of assets. This fact is understood with more clarity by looking at the start-up of Greentree Financial. Greentree was a spin-off of an MH portfolio from a failing S & L that started the growth process of the nation's leading MH lender in the 1990's. The only performing portfolio of the S & L was an MH portfolio acquired by Greentree in its start-up.

Greentree led the way to the creation of a market for Asset Backed Securities for MH loans during the late 1980's and early 1990's. By 1992 there were two companies that were public issuers of debt secured by MH loans. This market was approximately $2 billion annually. These lenders proved to be very profitable and the paper performed exceedingly well. However, from 1992 through 1998 the lending community in the industry grew from two lenders to fifteen, and the annual volume of loans grew from $2 billion to $18 billion. With this increase in competition, lending practices deteriorated leading to poor underwriting practices and ultimately poor loan performance (especially during the years of 1997 through 2001) and the devastation of lending for the industry.

This period of time in industry lending is the basis for the third reason MH loans are given a bad rap. It is important to note that the situation that occurred in MH lending in the late 1990's is almost identical to the problems that are occurring today in the Mortgage Industry. Increased competition in lending for site-built mortgages created poor lending practices which led to the fall in the housing industry generally and the tipping point for the current credit crisis and recession. The point to understand is that bad lending practices in MH lending are just as destructive as in mortgage lending. The underlying collateral of MH did not cause the poor loan performance; bad lending practices did, just as it has in the Mortgage Industry.

Since the exit of many lenders from the industry, many improvements have been made by the industry to return to sound lending practices and insure a profitable lending model. One of these improvements includes the passage of the 2000 Act, which provides for the nationwide regulation of installation and a dispute resolution process for consumers. These facts are proven by the survival of several lenders in the MH industry. These lenders have continued to operate with sound underwriting practices and have remained profitable. However, the current credit crisis has eliminated the ability, even for these lenders, to sell MH loans in the marketplace, creating considerable stress for an already troubled industry.

HISTORY OF GSE LENDING ON MANUFACTURED HOMES

The GSEs have continued to push-back against creating MH loans because of the myths related to the aforementioned issues, which has been exacerbated by their poor understanding of MH lending models and lack of oversight of MH lending practices as it relates to conforming mortgage products. During the time of deterioration of MH lending in the industry (as mentioned above), retailers sought other avenues of finance. The deterioration in chattel and hybrid non-conforming loan products led to the sale of homes utilizing conforming mortgages as a finance vehicle. At that time, the GSEs had established no real differences in mortgage criteria for site-built homes as it compared to traditional MH product. Accordingly many homes that had differing collateral characteristics were appraised and underwritten to the same standards as other classes of collateral (i.e., site-built homes). These homes were placed on pier block foundations with non-structural skirting and steps, but appraised as homes installed on permanent foundations. While these classes of collateral perform differently than their site-built counterparts, when underwritten and financed properly, they can and do perform profitably for lenders. The primary issue here is that MH products were "over-valued" because there was no difference in appraisal standards, which ultimately led to poor performance. The problem was not the underlying collateral, but the system used to underwrite and value the homes.

In 2003, the GSEs made significant changes in the way that MH products were underwritten and appraised. These changes have led to an improvement in loan performance for MH conforming loan products (albeit coinciding with the deterioration of site-built products to such a degree that conservatorship has been instituted to keep the GSEs viable). Although there has been an improvement in MH loan performance for the GSEs since 2003, there have been no steps taken by the GSEs to insure that MH is reasonably served to meet its affordable housing goals. The lack of these steps has led to insignificant MH originations as compared to other forms of housing.

There has been no attempt by the GSEs to look at traditional lending models or to provide creative loan product designs that both support the origination of MH loans and provide profitability for lenders. All of these issues have been compounded by today's current credit crisis, producing a significant shortage of available lenders and loan programs for purchasers of Manufactured Homes. The sad commentary here is that profitable MH lending models exist and MH products are the most affordable housing alternative available without subsidy from the government. In a time where record federal deficits exist, the fulfillment of the Duty to Serve for Manufactured Housing has never been more important.

With MH lending being applied to lower price points (traditionally from $35 to $55 per square foot, exclusive of land, significantly less than most site-built homes) 100,000

families a year could be financed in affordable housing for approximately $10 billion in originations annually. Currently, $600 billion has been set aside by the government to purchase the securities of the GSEs and the industry believes that there should be a portion of these funds earmarked to insure the fulfillment of the Duty to Serve mandate.

Today's Manufactured Home is a much superior product to years past, due to the maturing of the industry, innovative manufacturing techniques, competition with the site built segment of the housing industry, establishment of lending transparency and best practices (this pre-dates the efforts of regulators currently reviewing mortgage lending practices) and updates to the laws and building codes that govern the production, sale and installation of the home. Today, there are profitable lenders in the industry, but there is no viable market for the sale of their loans. Furthermore, Manufactured Housing has provided millions of Americans with the most affordable housing option available, other than government sponsored subsidy programs. Literally, Manufactured Housing stands alone in its ability to help lower and moderate-income Americans fulfill the dream of home ownership. However, while the industry has worked hard to overcome its lending woes, the industry has continued to suffer due to a lack of available financing.

LENDING PROGRAMS

Traditional finance models for Manufactured Housing have generally included a variety of finance options. The various loan products all have characteristics that are designed to mitigate lender risk based on the collateral characteristics involved. These characteristics include, but are not necessarily limited to, interest rate, term of loan, down payment requirements and the like. These long-standing industry options need to be combined with an improvement to the way MH is treated in the Conforming Mortgage market as well. Below is a discussion of the various types of programs necessary to revive lending for Manufactured Homes and to make an important first step toward fulfilling the requirement of Duty to Serve.

Chattel Financing: A Chattel Loan (personal property) is an installment loan that uses the "home only" as collateral for the loan. This lending product has traditionally been the backbone of the industry, with many homes going on private property, sometimes owned by the homeowner but not included in the collateral of the loan, or in land-lease parks and communities. The amount financed is calculated via an Advance Based System using the invoice of the home manufacturer. The advance worksheet (a typical worksheet has been provided in the attached Appendix) generally provides a maximum amount available to finance up to 150% of the manufacturer's invoice amount (subject to certain limitations) for the home to the retailer, plus add-on amounts (allowances) for set-up and installation, skirting or foundation walls, steps, air conditioning and other appurtenances. While many

lenders use various criteria in their proprietary lending models to determine the advance rate (amount available for finance) and the interest rate on the loan, most lenders utilize a system which uses some or all of the following loan characteristics to determine the amount available for finance: term of the loan, purchaser credit score or criteria, type of collateral (single-section or multi-section, new or used), age of the home, down payment and manufacturer invoice disclosures among other factors. Minimum down payments start at 5% and typical standard loan models include programs of up to 20% down payments. The term of the loan varies from 7 to 15 years for single-section homes and from 10 to 20 years for multi-section homes. Chattel based financing is typically done in an accelerated closing and installation process because no mortgage is required on the land. Today's lenders have addressed concerns with escalating rents in parks through agreements with park owners and typically get landlord waivers from private property owners.

Land-Home Financing: A Land-Home Loan is a special type of non-conforming mortgage loan. The home and the land are both included as collateral for the loan in the mortgage. Additionally the closing process and certain requirements of conforming mortgages are waived, streamlining and accelerating the loan process. (An example of these waivers is the elimination of mortgage insurance. Typically this is accomplished without additional lender risk through higher rate structures than Conforming Mortgages.) The amount financed is based upon a hybrid system using the appraised value for the land and an Advance Based System similar to Chattel Loans (otherwise described as "a modified cost basis approach") for the home plus the cost (subject to allowance maximums) for appurtenances. The maximum amount available for finance is the appraised value of the land, plus up to 150% of the manufacturer's invoice for the home to the retailer (Please refer to the Chattel Loan Worksheet in the Appendix), plus the cost of add-on amounts (allowances) for set-up and installation, skirting or foundation walls, steps, air conditioning, porches, garages and other appurtenances. Land-Home loans allow for both the installation of Manufactured Homes on traditional pier block systems with non-structural skirting and for permanent foundations systems. While many lenders use various criteria in their proprietary lending models to determine the advance rate on the home (amount available for finance) and the interest rate on the loan, most lenders utilize a system which uses some or all of the following loan characteristics to determine the amount available for finance: term of the loan, purchaser credit score or criteria, type of collateral (single-section or multi-section, new or used), age of the home, down payment and manufacturer invoice disclosures among other factors. Minimum down payments start at 5% and typical standard loan models include programs of up to 20% down payments. The term of the loan varies from 10 to 20 years for single section homes and from 10 to 25 years for multi-section homes. Land-Home financing also includes a construction loan type feature (also known as staged funding) for the retailer, which allows for the funding of the land, improvements and the home, through construction draws.

Conforming Mortgage Financing: A Conforming Mortgage Loan is based on the finance model determined by the GSEs. The home is attached to a permanent foundation and both the land and home are included in the mortgage. Conforming mortgage products carry specific requirements for surveys, appraisals, mortgage insurance, etc. While Conforming Mortgage Loans have generally been available from the GSEs for some time, Manufactured Housing Loans are appraised and underwritten to discriminatory standards compared to site built homes with higher interest rates, thus only producing a small number of loans annually. (Today's MH loans represent less than 1% of the portfolios of the GSEs.) The Manufactured Housing Industry builds many homes that have the same aesthetic and construction characteristics as site-built homes. For these "high end" Manufactured Homes there should be no difference in standards applied for interest rate, term, appraisal or underwriting criteria than are applied to site built homes.

SPECIAL CONSIDERATIONS

While the above information is a synopsis of loan product designs, in order to serve the low-to-middle income and first-time home-buyer, there is a great need for special programs as well. These programs include the following:

1. **Land In Lieu of Down Payment**: Many customers already own a piece of land. Programs must be established to allow the customer to use the equity in their land in lieu of all or a portion of the down payment requirements for the loan. Amounts available for substitution of the cash down payment should be up to 65% of the appraised value of the land.

2. **Higher Equity Loans**: Many customers have issues with their credit history. Programs should be established that allow the purchase and finance of a home with lower credit scores through higher down payment requirements. Because Manufactured Homes are less expensive than site built homes, higher equity programs for lower credit score customers are much more attainable.

3. **Buy-For and Co-signer Loans**: Many customers purchase homes (primarily through Chattel Loans) where their parents or a relative help the customer with the purchase of the home. This additional help is considered a credit enhancement and particularly helps first-time home buyers.

4. **Stated Income Loans**: Some purchasers of homes are self-employed and

find it difficult to verify income. These issues affect all segments of the housing industry. Site-built lenders have traditionally provided for underwriting criteria to allow such borrowers to qualify for a loan. Similar types of loan programs should be applied to Manufactured Housing as well.

5. **Other Innovative Products**: The Duty to Serve includes support for very low, low and moderate-income families. While Manufactured Housing is uniquely positioned to serve these markets because of lower price points, consideration should be given to varying down payment programs and other innovative loan programs.

LENDING PROGRAM HIGHLIGHTS

Chattel Loans
Quick Closing Process
Personal Property Installment Loan
Advance up to 150% of Invoice
Minimum 5% Down Payment
Rate Buy Downs Available

Land-Home Highlights
Hybrid Mortgage Loan
Construction Loan/Staged Funding Included
No PMI Required
Rate Buy Down Available
14 Day Closing
Construction to Permanent Single Closing
Minimum 5% Down Payment
Appraised Value of Land and 150% of Invoice, plus cost of Appurtenances

MH Conforming Mortgage
On Par With Site Built
Longer Finance Term
Lower Rates Available
Appraisal Based System

CURRENT CONSIDERATIONS MAINTAINED BY THE GSEs

While it is clear that the GSEs have not moved to create lending products necessary for the industry to survive, the GSEs have expressed a concern related to their ability to offer securities that allow the inclusion of these types of loan products in their Mortgage Backed Securities ("MBS") offerings. The GSEs have stated that the prevailing reasons for this include:

1. Appraisal based lending as opposed to other valuation methods such as Advance Based Lending (Modified Cost-basis Approaches).

2. The inability to accept industry practices relating to title perfection through the combination of title lien perfection and real estate mortgage liens.

3. Differing prepayment speeds.

4. Lack of PMI.

5. Lack of available market for the securities.

A brief discussion of each issue follows.

Advance-Based Lending: GSEs have long held that appraisal-based systems are the "holy grail" to valuation of collateral. The current lending crisis, and the previous crisis in the thrift industry, prove that appraisal-based lending has its limitations. Over the years, Advanced Based Lending systems used by the MH industry have a long-standing track record of reasonable collateral valuation. Recovery rates on defaults have been fairly consistent except during times of poor lending practices. (No industry or collateral class is immune to finance abuses as demonstrated by the current credit crisis.) The industry believes it is prudent for the GSEs to modify the appraisal guidelines to allow for alternative methods of value based on the manufacturer's invoice for the home.

Combination Title Lien Perfection: While there may be disclosure requirements that have to be added to MBS offerings, the industry has securitized billions of dollars of loans with combination title perfection methods. These methods have proven sound for the lender to effect repossessions and foreclosures and maintain a proper security interest in the underlying collateral.

Differing Pre-payment Speeds: While the industry does not argue that chattel loans may have a different pre-payment speed than traditional mortgage loans, there is adequate industry data available to predict the pre-payment characteristics of such loans. These pre-payment speeds may have to be managed through changes in disclosures or the

separation of asset classes in differing securities.

Lack of PMI: Currently mortgage insurers have limited their coverage of MH loans due to significant problems of their own. While these issues may also be linked to charter requirements and disclosures, the finance industry has successfully offered profitable securities under the lending models presented without mortgage insurance for years. The additional risk is mitigated through higher rates and other changes in loan characteristics as mentioned.

Lack of Available Investors: While this paper does not discuss the merits of whether MH loans originated under the lending models presented are includable in current MBS offerings of the GSEs, today the two major investors of the GSEs securities offerings are the Treasury Department and the Federal Reserve. It is apparent that the GSEs have many issues related to the issuance of any security regardless of the inclusion of MH loans. Accordingly there must be a consolidated effort for FHFA, the GSEs, the Treasury and the Federal Reserve to work together to create both a viable security offering for MH loan products and a working market for MH securities.

ACTION STEPS TO FULFILL DUTY TO SERVE

There are a number of things that must be done in order for the GSEs to fulfill the requirements of Duty to Serve. These include the following:

1. FHFA must initiate significant discussions with the MH industry and the GSEs to provide for the creation of innovative loan products to serve consumers of affordable housing. This paper serves as a background document to facilitate such a discussion. Information is readily available from current industry lenders to assist in the creation of such loan products.

2. While, in due course, regulations and rules will need to be established governing benchmarks and measurement criteria to determine whether the GSEs are meeting their obligations under the law, it is obvious that a sense of urgency must be applied to spark lending immediately. The early establishment of loan products could produce an additional 30,000 to 40,000 home sales annually. This situation would provide significant aid to the ailing MH industry and would be a positive first step toward meeting the Duty to Serve requirements. Over the course of time, final benchmarks and improvements in loan products could be accomplished to insure the ongoing compliance with the law by the GSEs. However, without immediate action there will be no industry left to serve.

3. The creation of loan products may also require the facilitation of market investors which most likely will require intervention by the Treasury and the Federal Reserve until markets stabilize. This situation will require coordination and communication among the various federal agencies to create an immediate market for MH loan products.

SUMMARY

Traditional lending models for Manufactured Housing have included all of the loan products and programs discussed above. For several years, lenders were able to originate loans using these products and experienced good loan performance and achieved profitability. Some of these lenders are still operating today, but there is a significant under-capacity to sell these loans in the marketplace. While some Manufactured Housing Lenders, just as Mortgage Lenders in the site built industry, got away from solid underwriting criteria and pushed the envelope on lending, leading to bad loan performance and the loss of lending capacity, the lending model for profitable loans exists today, but is restrained by access to the capital markets.

The industry believes that Manufactured Housing Loans can be made profitably by using traditional lending models and methods, but currently there is very little financing available. The credit crisis has further exacerbated this issue by forcing the largest lender from the marketplace. Without consumer financing for Manufactured Homes, America will lose one of its greatest asset, an industry built on affordable, non-subsidized housing.

The industry currently has a number of lenders that can provide additional information related to these lending programs and models. MHARR stands ready to facilitate information for the GSEs and its regulator necessary to meet the requirements of the Duty to Serve.

Please see attached Appendix for Chattel Loan Worksheet Example on the next page

APPENDIX

CHATTEL LOAN WORKSHEET

MAXIMUM HOME SALES PRICE CALCULATION

Total Factory Invoice				60,000
Deletions				
Freight			1,500	
Taxes				
Furniture				
Wheels and Axles			1,200	
Fees			300	
Other: ____________				
Total Deletions				(3,000)
Net Invoice				57,000
Advance Ratio		Select		
New-less than 1 year	145%	X		82,650
New-less than 2 years	140%			
New-less than 3 years	135%			
New-less than 4 years	130%			
Mfg VEP Code		Select		
If Code = 0, then add 5%				
If Code = 1, then no adjustment		X		-0-
If Code = 2, then deduct 5%				
Adjusted Mark-up Amount				82,650
Additions				
Freight			1,500	
Sales Tax			1,500	
Delivery and Set			2,000	
Air Conditioner			1,400	
Skirting			800	
Steps			500	
Fees			300	
Other: ____________				
Total Additions				8,000
Total Home Value				90,650

Maximum LTV (100% minus minimum conditioned down-payment 95%

Maximum Advance (Total home value X Max LTV) 86,118